



## U.S. Department of Justice

*United States Attorney  
Southern District of New York*

*The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007*

January 7, 2024

**VIA ECF**

The Honorable Paul G. Gardephe  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

Re: *United States v. William Weiner,*  
22 Cr. 19 (PGG)

Dear Judge Gardephe:

The Government writes in response to the new objection raised in defendant William Weiner's reply letter seeking to quash the Government's Rule 17(c) subpoena on Nexray. (Dkt. 340 (the "Reply")). The Reply argues for the first time that "a request for every text message that Dr. Weiner sent to or received from eight different people over the course of more than a decade is wildly overbroad." (*Id.* at 2). For the avoidance of doubt, the Government will limit Request #7 to text messages related to Nexray. The Government has a specific and articulable basis to believe that such messages exist.<sup>1</sup>

First, Weiner communicated exclusively with Bradley Pierre about Nexray in the text messages the Government recovered from Bradley Pierre's iCloud account between December 2016 and May 2020. Given that the conspiracy began much earlier and continued much later (through January 2022), there is a specific and articulable basis to believe that additional messages exist related to Nexray.

Second, there is a specific and articulable basis to believe that messages exist related to Nexray between Weiner and Marvin Moy. The Court is aware that Moy is a charged coconspirator who referred patients to Weiner in return for his falsifying injuries in MRIs. Weiner further stated during his Examination under Oath with Farmers Insurance in 2017 that Moy was a "physician friend" that Weiner had known for years and that Moy, "my friend who's in the space next to me, [is] my primary referral as of now." Weiner continued to describe Moy as one of his biggest sources of referrals during his Examination under Oath with Liberty Mutual in 2021. Given the self-described friendship and the major role that Moy played in Weiner's referrals, there is a

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<sup>1</sup> The Government has already set forth in its initial opposition that it does not have the text messages that it now seeks. Weiner's description of the discovery in the Reply, including that the Government has messages among Weiner, Dr. Barbara Moriarty, and Dr. Mark Decker, is simply wrong. Weiner does not point to a specific production or a Bates number because none exists.

specific and articulable basis to believe that Weiner and Moy communicated with each other about Nexray, including by text message.

Third, there is a specific and articulable basis to believe that messages exist related to Nexray between Weiner and Dr. Barbara Moriarty and Weiner and Dr. Mark Decker. The Government will introduce testimony that Weiner pressured Dr. Moriarty and Dr. Decker to falsify injuries on MRIs and communicated with these physicians via phone.<sup>2</sup> There accordingly is a specific and articulable basis to believe that text messages exist related to Nexray between Weiner and Dr. Moriarty and Weiner and Dr. Decker.

Fourth, there is a specific and articulable basis to believe that messages exist related to Nexray between Weiner and Dr. Mark Novick. The Government will introduce text messages between Pierre and Weiner showing that Weiner ceased using Dr. Novick's services after Dr. Novick found no injuries in radiology reports he read for Nexray. In these messages, Weiner sends Pierre multiple copy-and-paste quotes of Dr. Novick's text messages to Weiner including, "What is the issue? Giving any and all pathology present. Not understanding." Weiner also texts Pierre, "He's texting and calling."<sup>3</sup> There accordingly is a specific and articulable basis to believe that messages exist related to Nexray between Weiner and Dr. Novick.

Fifth, there is a specific and articulable basis to believe that messages exist related to Nexray between Weiner and Alexander Mostovoy. At trial, the Government will introduce text messages between Pierre and Weiner showing that Mostovoy was one of the referring physicians who sent patients to Nexray in return for Weiner's falsifying injuries in MRI reports. In these messages, Pierre tells Weiner numerous times that referring physicians were "complaining" about MRI reports prepared by Dr. Moriarty, after which Weiner stated, "Let's arrange FaceTime w these docs." Given that Weiner is communicating with these physicians by phone, there is a specific and articulable basis to believe that text messages exist related to Nexray between Weiner and Mostovoy.

Lastly, there is a specific and articulable basis to believe that text messages exist related to Nexray between Weiner and Gulchehra Zulonov. As described in the Government's opposition to Weiner's initial motion to quash, Zulonov was a coconspirator that worked for Pierre as part of the healthcare fraud scheme. The Government served a subpoena on Zulonov for text messages between her and Weiner. However, Zulonov responded with an incomplete production of messages—all related to Nexray—beginning in October 2017. There is no explanation about why the messages begin in October 2017, even though Zulonov worked for Pierre prior to October 2017 and communicated with Weiner during this time. There likewise is an unexplained three-year gap in the messages from July 2018 to October 2021, even though Zulonov continued to work for Pierre during this time and communicated with Weiner. There accordingly is a specific and articulable basis to believe that additional messages exist related to Nexray between Weiner and Zulonov.

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<sup>2</sup> Dr. Moriarty and Dr. Decker no longer have copies of their communications with Weiner.

<sup>3</sup> Dr. Novick no longer has copies of his communications with Weiner.

For the foregoing reasons, Weiner's motion to quash Request #7 should be denied.

Respectfully submitted,  
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